



# Washington State Liquor Control Board

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## Regulatory/Permitting Guidance for Outdoor Marijuana Producers

In addition to the requirements of the Washington State Liquor Control Board (WSLCB), marijuana producers applying for licenses under Initiative 502 (I-502) may be subject to additional local, state and regional regulations.

These additional regulatory requirements may have separate timelines and costs from the WSLCB process. They can include environmental permitting<sup>1</sup>, land-use regulations (zoning), business licensing and building/fire codes.

*Note: This fact sheet is for informational purposes only. It is intended to help marijuana producers be aware of local, state and/or regional requirements they may need to meet. For more technical information, contact the local, state and regional regulatory authorities listed below. WSLCB staff cannot answer permitting questions.*

## Local Government Permits and Regulations

Local governments are responsible for determining how land is used and where businesses can locate in their jurisdictions (except for the 1,000 foot buffer zone mandated by I-502). Typical land-use designations include residential, commercial, industrial, manufacturing and agricultural although local authorities may develop marijuana-specific zoning. Make sure local zoning allows your proposed use before committing to a location.

Local governments may also have their own business licensing requirements and they administer building, fire, electrical, mechanical, energy and plumbing codes.

*Tip: Many local governments offer a “pre-application” meeting where you can learn what local permits you will need and the time/cost it will take to obtain them. Call your local permitting agency, often the planning and development department and ask for their help. It could save you time and money.*

State Environmental Policy Act (SEPA) – SEPA is not a permit; it is an environmental review process which helps governments make decisions about permits and other actions. The WSLCB completed a SEPA review for the rules governing marijuana licensing. Individual producer operations may also have to undertake SEPA reviews. Local permitting agencies will determine if it is necessary.

If SEPA is required, project applicants must complete a checklist describing the possible environmental impacts of their project. Processes such as solid waste disposal, traffic impacts, odors, etc. may be included. Additional guidance about SEPA can be found at:

- [www.ecy.wa.gov/programs/sea/sepa/agenciesApplicantsGuidance.html](http://www.ecy.wa.gov/programs/sea/sepa/agenciesApplicantsGuidance.html)

## State and Regional Environmental Permits and Regulations

There are a number of environmental permits and regulations that may apply to outdoor growing operations. These permits are generally administered by state or regional agencies unless a local jurisdiction has been delegated by the state to issue the permit.

Water Resource Regulations – For outdoor irrigation growers have four options to supply water to the plants: 1) Relying on rainfall; 2) Obtaining a water right permit; 3) Relying on the water right permit exemption for small uses of water or; 4) Obtaining water from a water purveyor such as an irrigation district.

- A Water Right Permit from the state Department of Ecology (Ecology) is needed for ground water withdrawals over 5,000 gallons a day or any surface water withdrawal.
- A Water Right Permit Exemption is available for groundwater withdrawals (“exempt wells”) of no more than 5,000 gallons a day. Although this withdrawal does not need a permit, it is still subject to the same privileges and restrictions as a permitted water right. Only one groundwater exemption is allowed for any one project, regardless of size.
- Rainwater collection systems are allowed in Washington without requiring a water right. They can be used to store water collected in wet seasons for later use. Groundwater from exempt wells can also

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<sup>1</sup> The term ‘permit’ is a synonym for process, permit, authorization, license, regulation, certificate and approval.

be pumped to a rainwater collection system and stored until needed for beneficial use as long as the 5,000 gallon limit per day is not exceeded.

Collected rain or ground water can only be used on the same parcel from which it was captured. For more information about water rights and rainwater collection systems, see:

- [www.ecy.wa.gov/programs/wr/rights/water-right-home.html](http://www.ecy.wa.gov/programs/wr/rights/water-right-home.html)
- [www.ecy.wa.gov/programs/wr/hq/rwh.html](http://www.ecy.wa.gov/programs/wr/hq/rwh.html)

*Tip: The average wait time to obtain a Water Right Permit is fifteen years. The average wait to transfer a right is over five years. Ecology can help determine if a property has a water right, see: [www.ecy.wa.gov/programs/wr/rights/find\\_existing\\_wr.html](http://www.ecy.wa.gov/programs/wr/rights/find_existing_wr.html).*

**Chemigation and Fertigation Regulations** – Chemigation or fertigation refers to the application of fertilizers and/or pesticides through a water irrigation system. (The definition of fertilizers includes water reclaimed from food processing or wastewater treatment facilities.)

Chemigation and fertigation systems must be installed according to state regulations, WAC 16-202-1001 and WAC 16-202-2002. The Department of Agriculture has a technical assistance program to assist individuals who chemigate and fertigate in protecting human health and the environment from the potential hazard of improper fertilizer and pesticide use. For more information see:

- <http://agr.wa.gov/PestFert/ChemFert/>
- <http://apps.leg.wa.gov/WAC/default.aspx?cite=16-202>

**Air Quality Regulations** – Depending on location, Ecology or a local clean air authority will regulate activities that may affect air quality in different regions of the state. Activities that can be regulated include odors, dust and outdoor burning.

Odors and fugitive dust caused by agricultural activities on agricultural land are generally exempt from the requirements of Washington's Clean Air Act. However, the law specifies that "agricultural land" means "at least five acres of land devoted primarily to the commercial production of livestock, agricultural commodities or cultured aquatic products (RCW 70.94.640(5)(c))."

- Agricultural activities on parcels smaller than five acres may not be exempt from odor and dust complaints. Local clean air agencies have the authority to regulate odors that "may unreasonably interfere with another property owner's use or enjoyment of his property" (WAC 173-400-040(5)). Operations that receive odor complaints may be subject to fines.
- Burn Permits are needed for certain agricultural and land clearing burning. These include:
  - Land Clearing Burn Permit – Land clearing burning means outdoor burning of trees, stumps, shrubbery or other natural vegetation from land clearing projects (i.e., projects that clear the land so it can be used for a different purpose). For information see: <http://apps.oria.wa.gov/permithandbook/permitdetail.asp?id=91>.
  - Agricultural Burning – several types of agricultural practices require burn permits. For more information see: <http://apps.oria.wa.gov/permithandbook/category.asp?id=1>.

*Tip: Consult with your local clean air agency or Ecology to determine if your outdoor operation or activities meet the requirements of the Clean Air Act or if you need a burn permit. [www.ecy.wa.gov/programs/air/local.html](http://www.ecy.wa.gov/programs/air/local.html).*

**Solid Waste Disposal** – Outdoor growers have several options for disposal of marijuana waste but each has different requirements.

- Unadulterated marijuana crop residues may be tilled under, *in place only*, and do not need to be ground and mixed with 50% other waste as required by the marijuana licensing rules.

If marijuana crop residues are not tilled under in place, they will need to be rendered unusable by mixing with 50% other materials and ground before disposal. This mix is considered a "solid waste" by Washington State regulations and its management and disposal must comply with "Solid Waste Handling Standards, WAC 173-350." Ground materials can be handled in several ways:

- Crop residues which have been ground and mixed with 50% other materials can be land applied at

agronomic rates. Land application will need a permit from the local health district.

- Composting of the ground marijuana mix on-site is allowed and the composted material can be returned to the fields.
- The ground marijuana mix may be shipped off-site to a regulated solid waste facility for disposal, composting or other handling.

Regulatory oversight of solid wastes is the responsibility of local health districts (sometimes called “environmental health”). If you choose to grind and mix your marijuana wastes with other materials, begin a conversation with your local health district on how to handle this waste.

*Tip: Determine how you propose to handle your solid wastes before beginning operations. Be prepared to discuss the following with your local health district (be as specific as possible):*

- *What you will be mixing the marijuana waste with to render it unusable?*
- *If waste material is held before it is disposed of, where, how and for how long will it be stored?*
- *Do you plan to compost marijuana waste on-site?*
- *Do you plan to ship marijuana waste off site? If so, who will be hauling it and where will it go?*
- *If land-applying, where will that occur?*

*To find local health districts see:*

[www.doh.wa.gov/AboutUs/PublicHealthSystem/LocalHealthJurisdictions.aspx](http://www.doh.wa.gov/AboutUs/PublicHealthSystem/LocalHealthJurisdictions.aspx)

Hazardous Waste Management – Waste pesticides may require special disposal.

*Tip: The WSDA operates a waste pesticide collection program, for information see:*

[www.agr.wa.gov/PestFert/Pesticides/WastePesticide.aspx](http://www.agr.wa.gov/PestFert/Pesticides/WastePesticide.aspx). *Waste pesticides may also be accepted at your local hazardous waste collection facility.*

Forest Practices Permit – If a property owner is considering changing forested land to agricultural use they may need a Forest Practices Permit.

The Department of Natural Resources (DNR) regulates forest practices on private/state lands and issues Forest Practices Permits. Some counties and cities also issue permits for converting forest land to other uses. In those counties and cities a DNR permit is not required.

To determine jurisdictions see: <http://apps.oria.wa.gov/permithandbook/permitdetail.asp?id=34>

### **Do You Need Environmental Permits?**

Applicants are advised to consult with local and state authorities since permit requirements vary based on site- and process-specific conditions. This document is for reference purposes only. Your local permitting agency should be able to determine if you will need any environmental permits.

You can also contact the Department of Ecology in your region for more information and assistance. See [www.ecy.wa.gov/org.html](http://www.ecy.wa.gov/org.html)